OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for
British Columbia

OFFICE OF THE REGISTRAR OF
LOBBYISTS FOR BRITISH COLUMBIA

Budget Submission

Fiscal Years
2011/12 - 2013/14

Presented to
The Select Standing Committee on Finance and Government Services
Legislative Assembly of British Columbia

November 23, 2010

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Overview

This is the budget submission of the Office of the Information and Privacy Commissioner ("OIPC") and the Office of the Registrar of Lobbyists ("ORL") for fiscal years 2011/12 through to 2013/14. This budget submission supports the attached OIPC and ORL Service Plan for the same three-year period.

In the budget submission, the Information and Privacy Commissioner and the Registrar of Lobbyists requests, for fiscal year 2011/12, a combined operating budget of $4,906,000 and, for planning purposes, combined operating budgets for fiscal years 2012/13 and 2013/14 of $4,906,000 each year. In addition, an increase in the capital budget of $30,000 is requested for fiscal 2011/12 to engage in necessary computer updates.

Mandate

The OIPC and the ORL are the independent oversight agencies responsible for monitoring and enforcing compliance with three statutes, the *Freedom of Information and Protection of Privacy Act (*"FIPPA"), the *Personal Information Protection Act* ("PIPA") and the *Lobbyists Registration Act* ("LRA"). The person who is the Commissioner under FIPPA and PIPA is also the Registrar under the LRA.

Under FIPPA, the OIPC enforces freedom of information and protection of privacy compliance by more than 2,000 public bodies including, amongst others, ministries, Crown corporations, health authorities, municipalities, self-governing professions, universities and school districts. In discharging its mandate, the OIPC investigates and mediates access appeals and privacy complaints, conducts formal hearings and issues binding orders, comments on the access and privacy implications of proposed legislation, programs, policies and technologies, and educates the public about their access and privacy rights and public bodies about their legal obligations. The work of the OIPC is critical to ensuring that decisions and actions of public bodies remain open and accountable.

PIPA sets the rules by which private sector organizations, including businesses, labour organizations, interest groups and non-profits must follow in the collection, use and disclosure of customer, client and employee personal information. Under PIPA, the OIPC's duties and functions are similar to those under FIPPA—enforcing compliance by an estimated 300,000 private sector organizations in British Columbia. The OIPC investigates complaints, adjudicates disputes and educates and informs the public about their private sector privacy rights, and organizations about their privacy responsibilities.

The LRA requires those who communicate with public office holders for payment in an attempt to influence any number of outcomes to register as lobbyists and provide information to the Registrar about those activities. The Registrar is responsible for making all of that information publicly available and does so through the maintenance of a web-based searchable registry.

Public access to information about lobbyists and their activities is critically important to ensure transparency in government decision-making. The Registrar is tasked with enforcing compliance and does so through an interrelated mix of strategies including education, verification, conducting compliance investigations and levying administrative penalties of up to $25,000.

Priorities for fiscal year 2011/12

For the past five months since my arrival, I have carefully observed the challenges, resources and organizational structures of both the OIPC and the ORL with a view to improving our ability to meet our myriad of legislative responsibilities in an environment of limited resources and growing demands on those stretched resources. I have established four key priorities which target the front, middle and end operations of the OIPC.

These priorities are:

1. Realigning and refocusing OIPC resources to meet the competing, varied and voluminous demands on limited resources;
2. Securing urgently needed information technology and security expertise to ensure we fully meet our obligations under FIPPA and PIPA in conducting investigations to address privacy breaches and threats, comment on initiatives affecting access and privacy rights including legislation, policies, programs and proposed information technology;
3. Ensuring resources are available to respond to ongoing judicial challenges brought against the OIPC by government and other public bodies so that funding for ordinary operations is not diverted to respond to litigation beyond the OIPC's control; and
4. Launching the ORL compliance strategy.

1. Realigning and refocusing OIPC resources

Having examined the role, structure and operations of the OIPC over my first few months in office, I am convinced that there is an immediate need to focus attention on proactive policy analysis consultations and investigations into system-wide problems. Toward this end, I have embarked on a reorganization in which two existing staff members have been reassigned to the first separate policy and legislative analysis unit, responsible for ongoing cross-government consultation on critical and emerging plans impacting access and privacy rights. This unit will specifically address government programs and projects, in particular those which potentially have a substantial and enduring impact on the privacy of all British Columbians including, for example, electronic health records, integrated case management and the implementation of surveillance technologies. For many years, our investigative staff have undertaken this work in addition to their core responsibility of managing access and privacy appeals. However, the urgent nature of appeals frequently pushed policy and legislative work to the sidelines.

More attention is also needed on the neglected public education mandate of the OIPC to ensure the public understand their statutory rights and to increase awareness of compliance obligations of government and private sector organizations. In this regard, I have recently hired a Manager of Communications and Public Education out of my existing staffing complement.

To expand on the success of the early intervention program, I have, on an interim basis and subject to this budget request, transferred an existing FTE from the Intake Unit to the Early Intervention Unit to assist in the early resolution of non-complex appeals and privacy issues. Successful early intervention saves money, time and preserves the personal resources of the parties to any dispute.

Finally, I intend to redefine the role of my current Executive Director position to refocus its responsibilities on the vital policy and stakeholder engagement work.

All of this I have, and intend to—to the best of my ability—manage within our current complement of 26 FTEs. However, this realignment requires a modest increase in salaries and benefits of $25,000 and I ask the Committee to approve this increase in our budget.

2. Urgent need for information technology expertise

The effect of information technology on the privacy of individuals has become major news over the past few years and the source of significant consumer concerns. Privacy breaches, computer hacking and inappropriate employee access are the unintended consequences of information technology. As information technology grows in terms of its capacity to collect, sort, transmit and retain personal information, the privacy risks rise concurrently. Unfortunately, our expertise in keeping up with these developments has not kept pace.

In its submission to the all-party committee reviewing FIPPA, the BC government made public its desire to expand its ability to collect, share, use and disclose personal information to a broader audience to achieve a government-wide goal of providing "citizen-centric services". The Deputy to the Premier recently publicly shared the government's vision of transformation in which the sharing of information would be guided by principles rather than prescriptive rules and that the boundaries of government departments will be erased and horizontally integrated so that services will be seamless, coherent and produce better outcomes. All of this is to be facilitated by new technology that permits the merging and integrations of databases. There are clear benefits to citizens: timely services, better information in the hands of decision-makers, less duplication and more integration.

The underlying public policy objectives that necessitate more data-sharing are laudable and indeed expected by the public. But these plans create clear privacy risks. Widespread data-sharing presents serious threats to government transparency in the management of personal information of citizens. Access controls may be lacking, allowing sensitive personal information of citizens to be viewed by those who have no right or operational reason to view it. Safeguards may be inadequate to protect information from authorized collection, use or disclosure. The harmful consequences of privacy and security breaches multiply in scope, magnitude and speed; more individuals are affected, more data is released, and it all happens more quickly.

In order to meaningfully participate in discussions about these plans and be satisfied that privacy rights of all citizens are properly addressed, we must have access to adequate technical information technology and security expertise. My office cannot meet its statutory mandate to

proactively advise the government on security of personal information without such technical expertise readily at hand.

Even more worrisome is that the lack of technical expertise limits our ability to independently investigate high-profile and/or large-scale privacy breaches. For example, the recent independent security investigation into the BC Lottery Corporation online gaming privacy breach was funded by the BC Lottery Corporation. While I am confident in the independence of that investigation, such arrangements have the potential to create negative public perceptions and diminish public confidence in oversight and my independence. In future, I believe it is necessary to ensure that the funding for any such security investigations be provided directly from the OIPC budget. I am therefore requesting the Committee approve an increase to our operational budget of $100,000 dollars to secure information technology security expertise on a contractual basis when required.

3. Judicial review litigation

The OIPC continues to face significant challenges by the large and often complex number of proceedings brought against it under the *Judicial Review Procedures Act*. Currently we have nine judicial reviews outstanding, three proceedings which were brought against us this year. It usually takes in excess of one year for a judicial review to proceed to hearing and decision, so the costs of all these proceedings will extend well into next fiscal year 2011/12 and possibly beyond. We cannot control how many applications are brought. This has resulted in the OIPC under-staffing positions to build up the necessary funds to answer the court proceedings and a parallel increase in the backlog of files and complaints. Last year, the Committee granted the OIPC $300,000 solely dedicated to addressing litigation costs with the proviso that any unspent monies would be returned to the Consolidated Revenue Fund at fiscal year end. Not all the matters have court dates but could be heard before the end of the year. To date, approximately $80,000 has been spent and, based on our assessment of the costs of such proceedings, we are projecting at least another $150,000 could be committed this fiscal.

Accordingly, we will continue to require funding of $300,000 to cover ongoing legal costs associated with judicial reviews on the condition that this funding is used solely for those legal costs and no other. This will allow us to spend our salary dollars on salary and remain fully staffed throughout the year. Any unused portion of the $300,000 at the end of fiscal year 2011/12 will be returned to the Consolidated Revenue Fund.

4. Launching the ORL compliance strategy

In last year's budget submission, my predecessor successfully sought funding to create the operational structure needed to implement the new LRA. In addition to the existing cross-agency resources used to support the Office of the Registrar of Lobbyists ("ORL"), the office was staffed with a full-time Deputy Registrar of Lobbyists and a Registry Manager.

The Committee provided my office with $141,000 of special funding to implement the new law. This was dedicated to researching and developing policies and procedures necessary to support the *Act,* legal reviews, developing new job descriptions, hiring staff, researching, developing and publishing FAQs and advisory bulletins, developing and launching a province-wide communication

strategy including cross-province workshops, setting up the office, upgrading the registry to accommodate the amendments and developing and launching a new ORL website.

The ORL compliance strategy for the first six months focused almost exclusively on education and outreach. This was deemed to be a success by the sheer number of lobbyists that registered. At the time of writing, there are 895 registered lobbyists, considerably higher than the 546 that were registered prior to April 1, 2010.

Although consciousness-raising remains key to ORL compliance, full compliance also requires the deployment of additional related strategies including incentives, outreach to public office holders, verification and audit of registration information, environmental scanning, reporting, investigation and administrative penalties, evaluation and adjustment. Each element of this strategy reinforces the others to achieve the objective of the *Act,* specifically enhancing transparency, accountability and integrity in lobbying. This strategy is consistent with the model framework set out by the Organization for Economic Cooperation and Development.

The ORL requires dedicated investigative staff to assist in analyzing information, determining whether there is a reasonable probability that non-compliance has occurred and recommending matters for formal investigation, which is the responsibility of the Deputy Registrar. I am therefore requesting an increase of $50,000 in the operational budget of the ORL to secure this expertise on a part-time contract basis. This will allow both the work to be done and the time to assess whether proper functioning of the LRA requires additional resources on a permanent basis.

5. Building occupancy and amortization of shared premises

The bulk of my request for additional funds in fiscal 2011/12 is $184,000 for building occupancy and $65,000 for amortization. These costs are a result of the relocation of the Office to shared accommodation under a 15-year lease agreement as recommended by the Select Standing Committee on Finance and Government Services in the fall of 2008. Construction of the space was completed on time and within the fiscal 2010/11 budget approved by the Committee. The offices moved as scheduled in October 2010. Fiscal 2011/12 is the first full year at the building.

6. Capital costs

I am also requesting an increase in the Capital budget which was reduced in last year's budget. The increase will bring the Capital budget back to the level in 2009/10. This increase is needed to allow for the timely replacement of staff computers and server to enable us to maintain technological efficiencies.

November 18, 2010

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

Statement of operations

(Previous and current fiscal years)

	Fiscal 2009/10 (previous year) Revised budget *	Fiscal 2009/10 (previous year) Actual expend.	Fiscal 2010/11 (current year) budget
Funding			
Voted appropriation	3,895,582	3,895,582	4,470,000
Total	**3,895,582**	**3,895,582**	**4,470,000**
Expense			
Salaries	2,286,468	2,286,468	2,572,000
Employee benefits	463,938	463,938	542,000
Travel	40,657	40,657	67,000
Centralized management support serv.	239,566	239,566	0
Professional services	567,361	567,361	600,000
Information systems	52,894	52,894	97,000
Office and business expenses	182,326	182,326	113,000
Information, adv. & publications	16,094	16,094	25,000
Statutory adv. & publications	14,024	14,024	20,000
Utilities, materials and supplies	10,015	10,015	16,000
Amortization expense	22,239	22,239	92,000
Building occupancy	0	0	331,000
Recoveries	0	0	(3,000)
Recoveries	0	0	(1,000)
Recoveries	0	0	(1,000)
Total expenses	**3,895,582**	**3,895,582**	**4,470,000**
Capital			
Info. systems, & furniture & equipment	45,000	45,000	15,000
Tenant improvements	0	0	559,000
Total capital	**45,000**	**45,000**	**574,000**

*Note: The original budget for the Office of the Information and Privacy Commissioner ($3,822,000) was increased by up to $141,000 following a recommendation by the Select Standing Committee on Finance and Government Services to the Minister of Finance on November 18, 2009. The increase was a consequence of the impact of amendments to the *Lobbyists Registration Act*. Because only $73,582 of the authorized maximum was spent, the revised budget for the Office was $3,895,582.

Proposed budget by standard object of expenditure (STOB)

		Fiscal 2010/11 (current) Budget	Fiscal 2011/12 (Proposed) Estimates	Change	Fiscal 2012/13 Planned	Fiscal 2013/14 Planned
STOB	**Operating budget**					
50	Salaries	2,307,000	**2,327,000**[1]	20,000	2,327,000	2,327,000
51	Supplemental salary	6,000	**6,000**	0	6,000	6,000
52	Employee benefits	542,000	**547,000**[1]	5,000	547,000	547,000
54	Officer of the Leg. salary	259,000	**259,000**[2]	0	259,000	259,000
57	Travel	67,000	**67,000**	0	67,000	67,000
59	Centralized mgmt support serv.	0	**0**	0	0	0
60	Professional services:					
	- General contracts	300,000	**450,000**[3]	150,000	450,000	450,000
	- Judicial reviews	300,000	**300,000**[3]	0	300,000	300,000
63	Information systems	97,000	**97,000**	0	97,000	97,000
65	Office and business expenses	113,000	**113,000**[4]	0	113,000	113,000
67	Info., advertising and publications	25,000	**25,000**[5]	0	25,000	25,000
68	Statutory adv. & publications	20,000	**20,000**[6]	0	20,000	20,000
69	Utilities , materials and supplies	16,000	**16,000**[7]	0	16,000	16,000
70	Operating equipment, vehicles	0	**12,000**	12,000	12,000	12,000
73	Amortization expense	92,000	**157,000**[8]	65,000	157,000	157,000
75	Building occupancy	331,000	**515,000**[9]	184,000	515,000	515,000
88	Recoveries	(3,000)	**(3,000)**	0	(3,000)	(3,000)
89	Recoveries	(1,000)	**(1,000)**	0	(1,000)	(1,000)
90	Recoveries	(1,000)	**(1,000)**	0	(1,000)	(1,000)
	Total	**4,470,000**	**4,906,000**	**436,000**	**4,906,000**	**4,906,000**
	Capital budget					
	Info. systems, & furn. & equip.	15,000	**45,000**	30,000	45,000	45,000
	Tenant improvements	559,000	**0**	-559,000	0	0
	Total	**574,000**	**45,000**[10]	**-529,000**	**45,000**	**45,000**
	Full-time equivalents					
	Total	**26**	**26**[11]	**0**	**26**	**26**

Notes:

1. STOB 50 (salaries) and STOB 52 (employee benefits)—Includes the status quo staffing complement of 26 positions in fiscal 2011/12, including salary increments/adjustments and the Office's portion of Shared Services costs.

2. STOB 54 (Officer of the Legislature Salary)—The salary for the Information and Privacy Commissioner is set by statute as equal to the salary of the Chief Judge of the Provincial Court. This salary was established by the final report of the 2007 British Columbia Judges Compensation Commission.

3. STOB 60 (professional services)—In fiscal year 2011/12, an increase of $150,000 is requested for professional service contracts: $100,000 for specialized contracts to conduct information and privacy investigations and audits, and $50,000 for contracts to support compliance functions under the Office of the Registrar of Lobbyists. The balance of $300,000 is status quo funding dedicated to judicial review proceedings brought against the Office of the Information and Privacy Commissioner. Any dedicated funds for judicial reviews that are not expended during the fiscal year will be returned to the Consolidated Revenue Fund.

4. STOB 65 (office & business expenses)—Includes costs for office stationary and supplies, offsite file storage, postal and courier charges, printing expenses (other than reports), newspaper subscriptions, staff training, photocopier leases and business meeting expenses.

5. STOB 67 (information, advertising & publications)—Includes the costs of printing public reports other than the annual report to the Legislature.

6. STOB 68 (statutory advertising & publications)—Includes costs for preparing and printing the annual report to the Legislature.

7. STOB 69 (utilities, materials & supplies)—Includes costs for utilities such as cablevision, recycling, books and supplies.

8. STOB 73 (amortization)—This is the cost of repaying capital budget expenditures for tenant improvements, furniture and IT equipment (information systems hardware and software). Tenant improvements and furniture expenditures are amortized on a monthly basis over five years, whereas IT expenditures are amortized over three years.

9. STOB 75 (building occupancy)—This is the Office of the Information and Privacy Commissioner's share of the consolidated office space for the OIPC and three other independent offices at 947 Fort Street. The construction of the LEED Gold office space was completed on schedule and on budget and occupancy commenced in October 2010. The terms of the 15-year lease were presented to and approved by the Select Standing Committee on Finance and Government Services in the fall of 2008. The fiscal year 2011/12 budget is for the first full year of occupancy in the building.

10. CAPITAL BUDGET—This is consistent with the capital budget in 2009/10. Capital funds are used to purchase IT equipment and furniture and are repaid through amortization in STOB 73.

11. FULL-TIME EQUIVALENTS (FTEs)—In fiscal year 2011/12, the FTE budget represents a status quo level of staffing. These figures do not include the Information and Privacy Commissioner because the position is not filled under the Public Service Act.

Fiscal 2011/12 budget request for the Office of the Information & Privacy Commissioner and the Office of the Registrar of Lobbyists

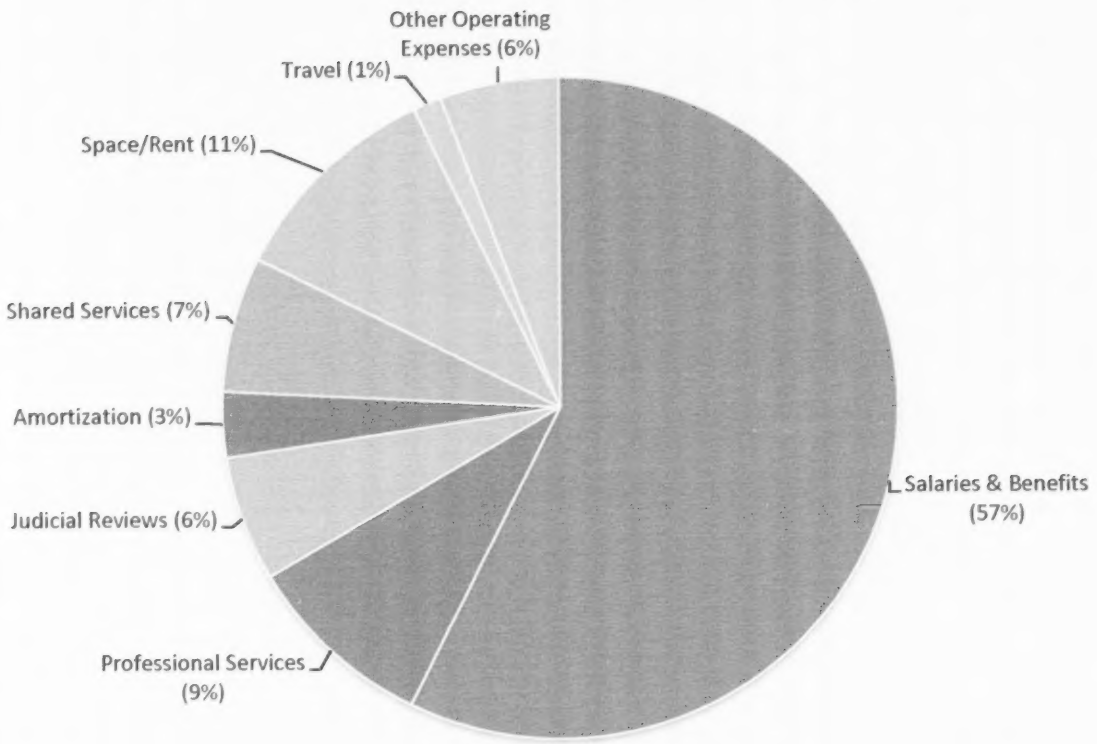
	Information & Privacy			Lobbyists Registration			Total		
STOB	Fiscal 2010/11 Budget	**Fiscal 2011/12 Budget Request**	Change	Fiscal 2010/11 Budget	**Fiscal 2011/12 Budget Request**	Change	Fiscal 2010/11 Budget	**Fiscal 2011/12 Budget Request**	Change
50	1,982,000	**2,002,000**	20,000	325,000	**325,000**	0	2,307,000	**2,327,000**	20,000
51	5,000	**5,000**	0	1,000	**1,000**	0	6,000	**6,000**	0
52	464,000	**469,000**	5,000	78,000	**78,000**	0	542,000	**547,000**	5,000
54	259,000	**259,000**	0	0	**0**	0	259,000	**259,000**	0
57	55,000	**55,000**	0	12,000	**12,000**	0	67,000	**67,000**	0
59	0	**0**	0	0	**0**	0	0	**0**	0
60	509,000	**609,000**	100,000	91,000	**141,000**	50,000	600,000	**750,000**	150,000
63	89,000	**89,000**	0	8,000	**8,000**	0	97,000	**97,000**	0
65	96,000	**96,000**	0	17,000	**17,000**	0	113,000	**113,000**	0
67	20,000	**20,000**	0	5,000	**5,000**	0	25,000	**25,000**	0
68	10,000	**10,000**	0	10,000	**10,000**	0	20,000	**20,000**	0
69	13,000	**13,000**	0	3,000	**3,000**	0	16,000	**16,000**	0
70	0	**12,000**	12,000		**0**	0	0	**12,000**	12,000
73	92,000	**157,000**	65,000	0	**0**	0	92,000	**157,000**	65,000
75	331,000	**515,000**	184,000	0	**0**	0	331,000	**515,000**	184,000
88	(3,000)	**(3,000)**	0	0	**0**	0	(3,000)	**(3,000)**	0
89	(1,000)	**(1,000)**	0	0	**0**	0	(1,000)	**(1,000)**	0
90	(1,000)	**(1,000)**	0	0	**0**	0	(1,000)	**(1,000)**	0
	3,920,000	**4,306,000**	386,000	550,000	**600,000**	**50,000**	4,470,000	**4,906,000**	436,000

Proposed budget by lines of business

Business area	Current year Fiscal 2010/11	Plan Fiscal 2011/12	Fiscal 2012/13	Fiscal 2013/14
Operating budget ($000)				
Core services:				
- Public sector information & privacy	2,621	**2,906**	2,906	2,906
- Lobbyists registration	550	**600**	600	600
- Private sector privacy	970	**1,075**	1,075	1,075
Total core services	4,141	**4,581**	4,581	4,581
Shared services	329	**325**	325	325
Total	**4,470**	**4,906**	4,906	4,906
Capital budget ($000)				
Info. systems, furniture & equipment	15	**45**	45	45
Tenant improvements	559	**0**	0	0
Total	574	**45**	45	45
Full-time equivalents (FTEs)*				
Public sector information & privacy	17.5	**17.5**	17.5	17.5
Lobbyists registration	3.5	**3.5**	3.5	3.5
Private sector privacy	5	**5**	5	5
Total	**26**	**26**	**26**	**26**

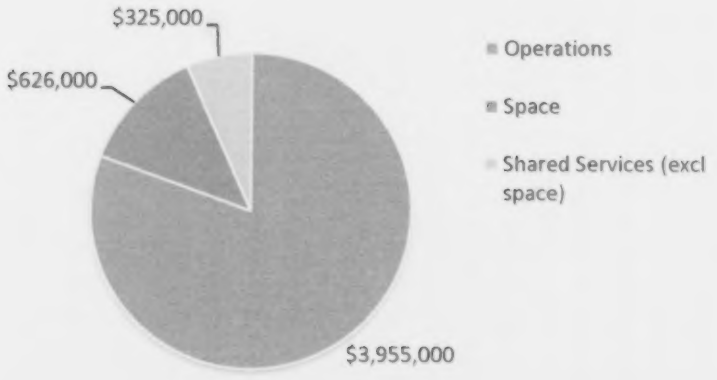
*Note: the FTE figures do not include the Information and Privacy Commissioner because the position is not filled under the Public Service Act.

Fiscal 2011/12 proposed operating budget by expenditure type
Office of the Information and Privacy Commissioner

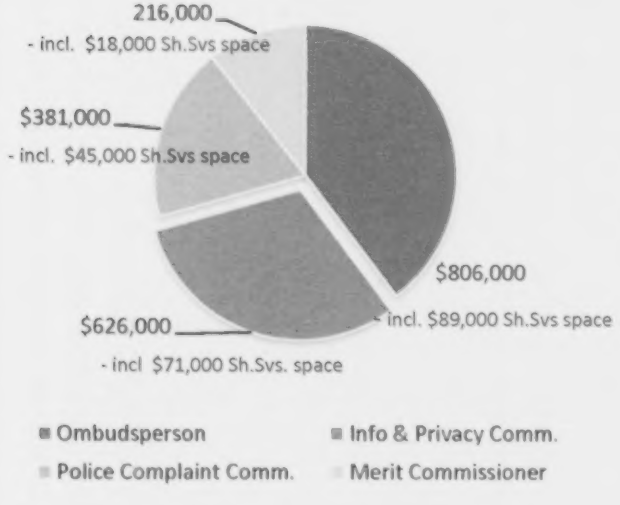


Fiscal 2011/12 proposed space budgets and shared services

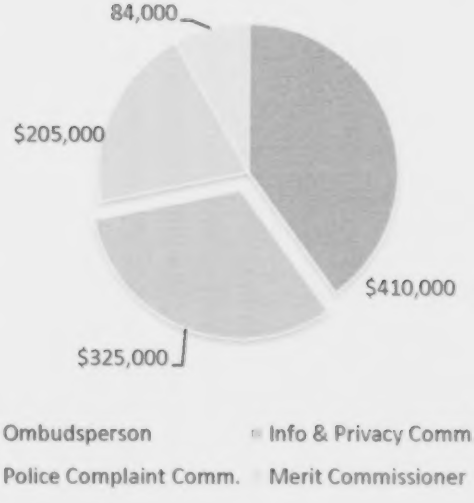
Office of the Information and Privacy Commissioner
Fiscal 2011/12 Operational Budget Request
Total: $4,906,000



Fiscal 2011/12 Space Budget, All Offices
(incl. Amortization of Tenant Improvement Capital Costs)
Total: $2,029,000



Fiscal 2011/12 Shared Services Budget, All Offices (excl. Space for Shared Services)
Total: $1,024,000



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for
British Columbia

OFFICE OF THE REGISTRAR OF
LOBBYISTS FOR BRITISH COLUMBIA

Service Plan

Fiscal Years
2012-2014

Presented to
The Select Standing Committee on Finance and Government Services
Legislative Assembly of British Columbia

November 23, 2010

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Service Plan message from the Information and Privacy Commissioner and the Registrar of Lobbyists

I provide a Service Plan separate from my budget submission in order to ensure that the Select Standing Committee on Finance and Government Services and the public have the information they need to fully understand the work of my office and how my budget submission directly ties into the priorities and strategies outlined in this Service Plan. The Service Plan also allows me to report on our progress in meeting the targets set by my predecessor and comment on how we can continue to discharge our statutory duties in a more efficient and effective manner.

This Service Plan identifies our goals and objectives over the course of the next three years in our core areas of business under the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), the *Personal Information Protection Act* ("PIPA") and the *Lobbyists Registration Act* ("LRA").

The resignation of Commissioner and Registrar David Loukidelis in January 2010, the subsequent appointment of the Conflict of Interest Commissioner Paul Fraser as the acting Commissioner and Registrar and my appointment in May 2010, have translated into substantial change to my office, including changes to the executive team. I am grateful to have inherited a robust, flexible and hardworking team in the Office of the Information and Privacy Commissioner (OIPC) and Office of the Registrar of Lobbyists (ORL) whose dedication has kept both operations running smoothly despite major upheavals.

In addition to these changes, the OIPC issued a number of key reports, including a report on the security of the Vancouver Coastal Health Region's PARIS e-health system and our report on the timeliness of government responses to access requests titled "It's About Time", released in August. Perhaps most importantly, in February, my office presented its submission to the Special Committee to Review the *Freedom of Information and Protection of Privacy Act*.

Our caseload under FIPPA and PIPA continues to be a challenge. As detailed in Appendix 1, we are forecasting our caseload to remain at a high level. We also receive numerous inquiries from public bodies, private sector organizations and members of the public where we provide advice about the operation of all three Acts. These workloads mean that, in practice, it will be a challenge for my office to continue to effectively and efficiently discharge our responsibilities for enforcing PIPA and FIPPA and to promote the values they represent.

On April 1, 2010, the new *Lobbyists Registration Act* came into force, expanding the definition of "lobbying", increasing reporting requirements and providing the Registrar with the power to investigate and levy administrative penalties in the event of non-compliance. The first six months of the ORL compliance strategy (April 1-September 30, 2010) focused almost exclusively on education and outreach. We are still in the process of establishing benchmark statistics, including the number of registrations filed on time. With respect to non-compliance, our approach over the last six months has been to contact the individual and/or organization, explain the new rules and ask them to review their activities to determine whether or not they are required to register, and if they do not believe they are,

to provide us with an explanation. We plan to significantly expand our compliance strategy over the next 18 months as indicated by the ORL Service Plan.

While sanctions for non-compliance are important, they are a small part of the overall compliance strategy. The ORL intends to seek compliance through an interrelated spectrum of compliance strategies including, in descending order, incentives, education and outreach to lobbyists and public office holders, verification of registration information, environmental scanning, reporting, investigation and administrative penalties, evaluation and adjustment. Each element of this strategy reinforces the others to achieve the objective of the Act, specifically enhancing transparency, accountability and integrity in lobbying. This strategy is consistent with the model framework set out by the Organization for Economic Co-operation and Development.

November 18, 2010

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

Vision

- A community where privacy is valued, respected and upheld in the public and private sectors;
- A community where access to information rights are understood and robustly exercised;
- A community where public agencies are open and accountable to the citizenry they serve; and
- A community where lobbying is recognized as a legitimate activity and all lobbying activities are transparent.

Mandate

Under FIPPA and PIPA, the mandate of the Office of the Information and Privacy Commissioner ("OIPC") is to:

- Independently review decisions and practices of public bodies and private sector organizations concerning access to information and the protection of privacy;
- Comment on the implications for access to information or protection of privacy of proposed legislative schemes, automated information systems, record linkages, and programs of public bodies and organizations; and
- Educate and inform the public about access and privacy rights.

Under the LRA, the mandate of the Office of the Registrar of Lobbyists ("ORL") is to:

- Register lobbyists and conduct administrative investigations into LRA compliance; and
- Promote awareness of registration requirements and access to lobbying information by the public.

Who we serve

Under FIPPA, PIPA, and the LRA, the Office serves:

- the public; and
- the Legislative Assembly of British Columbia.

How we do our work

The OIPC mediates and investigates access to information appeals and privacy complaints, conducts audits, delivers public education, reviews and comments on the privacy or access implications of legislation, programs or systems, conducts formal hearings and issues binding orders.

The ORL promotes and enforces compliance with the LRA by providing information to lobbyists and the organizations that employ them; by verifying information in registrations, conducting investigations into allegations of non-compliance and issuing administrative penalties where necessary.

Goals, strategies and performance measures

Goal 1—An open and accountable public sector

The goal of FIPPA is to ensure public bodies are accountable to the citizenry. It does so by giving the public a right to request records in the custody and control of public bodies and requires those public bodies to respond to access requests openly, accurately and without delay.

Strategies

My predecessor cited a persistent and worrisome trend across government in delays in responses to access requests, and embarked on issuing yearly reports, grading the response times across ministries. The government responded by implementing new strategies that improved the overall timeliness of its response times to access requests. We hope to see the results sustained and improved on in the coming years.

Performance Measure	2009/10 Target	2009/10 Final*	2010/11 Target	2011/12 Target	2012/13 Target
1. Average processing days for all ministries (business days)	30	24	24	24	24
2. Percentage of access requests processed on time by all ministries	75%	90% *	90%	92%	94%
Data Source: The data for 2009/10 final was obtained from the OIPC report ,"It's About Time", released in August, 2010.					

- However, my report, "It's About Time" identified several areas of ongoing concern requiring monitoring, including a worrying sustained pattern of delay in responding to requests from the media and political parties and a small but troubling increase in the number of files in which not a single requested record was released. I will follow up on this issue within six months and intend to take action should the response times in these areas continue to lag.

- Since taking office, my first priority was to encourage government ministries and other public bodies to consider ways to make information available, in a timely fashion, without a formal access to information request through proactive disclosure. This will continue to be a top priority for the next fiscal year and will involve ongoing consultations with the legislative assembly, ministries and Crown corporations, and other public bodies to encourage and support the development of proactive disclosure regimes.

The OIPC will also remain focused on enforcement strategies to ensure timely responses to access to information requests.

Goal 2—Protection of privacy in networked systems and new technologies

The BC government is setting into motion an ambitious plan to expand and link its electronic networks which will result in increased collection, use and disclosure of personal information to a broader audience, inside and outside government. In its submission to the all-party committee reviewing the *Freedom of Information and Protection of Privacy Act*, the government characterized our current statutory privacy rights as out-dated, "prescriptive" and a barrier to "providing accessible and responsive services" to citizens. Technological developments, including the explosive growth of networked systems, internet usage and social networking has fostered a public expectation that government services be accessible, online and timely. "Citizen-centric services" means approaching service delivery from the citizen's viewpoint, and providing seamless services wherever possible.

We recognize that these plans reflect government's desire for citizen-centered service models and the horizontal integration of ministries. They also reflect the enhanced capabilities of information technology that permit the merging and integration of databases. However, the ability to share personal information across government and beyond raises significant privacy risks. The consequences of privacy and security breaches multiply in scope, magnitude and speed—more individuals are affected, more data is released; and it all happens more quickly. It is therefore imperative that privacy is "built into" to data-sharing initiatives and that my Office exercises effective oversight.

The private sector also embraces new technologies to improve business processes, provide better customer service, target advertising dollars and add value to its personal information holdings. The use of private sector networked databases, social networking sites, geo-locational technology and cloud computing, for example, require specialized oversight expertise to identify and help mitigate any associated privacy risks.

Networked databases and other information management technologies do not respect provincial boundaries and coordinated efforts are required to meaningfully address the resultant privacy risks.

Strategies

- The OIPC will conduct investigations and audits to monitor compliance with the privacy rules in FIPPA and PIPA. While much of our work has been reactive in the past, as indicated in my budget submission, my plan is to address these issues in part by redirecting energy into investigations of systemic issues, audits and special reports, recommending best practices and developing guidelines that will allow governments and the private sector to fully avail themselves to new technologies while protecting privacy at the same time.

- In addition, the OIPC will continue to engage in cross-jurisdictional investigations of private sector privacy complaints or breaches. The advantage of cross-jurisdictional investigations is that the resulting findings and recommendations may have a more widespread influence and can better promote consistency of interpretation and compliance across jurisdictions. In support of these

investigations, we will work with our federal and provincial colleagues to develop an investigation protocol.

Performance Measure	2009/10 Total	2010/11 Estimate	2011/12 Target	2012/13 Target	2013/14 Target
3. Percentage of OIPC post-investigation recommendations implemented by affected public bodies and organizations	92%	92%	95%	95%	95%
Data Source: As part of the OIPC investigation process, OIPC investigators ascertain compliance with recommendations at the conclusion of each investigation and record them in the case file. The data is for all resolved privacy complaint and privacy breach files received between April 1, 2010 and September 30, 2010 and extrapolated for Fiscal Year 2010-11.					

Goal 3—Awareness of privacy rights and responsibilities

One of the OIPC's key functions is to educate the public about their access and privacy rights under FIPPA and PIPA as well as public and private entities about their responsibilities under those same laws. For the most part, these activities have been conducted for many years on an *ad hoc* basis by the overloaded investigative team off the sides of their desks.

This year, the office hosted several events across British Columbia for the annual Right to Know Week, including my keynote speech at the Freedom of Information and Privacy Association Summit in Vancouver, a panel discussion in Victoria and media articles including op-ed pieces, radio appearances and magazine articles.

The continued success of the *Personal Information Protection Act* Conference which we host with our colleagues in the Office of the Information and Privacy Commissioner of Alberta is reflected in an attendance of over 160 individuals at the fifth annual PIPA Conference held earlier this month.

Strategies

- To focus necessary and overdue attention on our statutory public education duties, I recently secured a Manager of Communications and Public Education by augmenting existing resources. I am strongly committed to improving public services with respect to education and outreach. This individual will take the lead in designing and overseeing coordinated province-wide public education strategies which will equip our client agencies with the tools they require to comply with the laws, and the public with confidence in and respect for their access and privacy rights.

- In addition, as foreshadowed in last year's Service Plan, the OIPC website is long overdue for a significant upgrade and overhaul. The world lives online, and it is critical that our online presence is credible, accessible and current. The website redesign is intended to accomplish a number of objectives: ensuring user-friendly navigation, reliable web-hosting, and maintaining accurate, relevant and current information with the intent of capturing the attention of new viewers, in particular younger audiences and private sector entities.

Performance Measure	2009/10 Total	2010/11 Estimate	2011/12 Target	2012/13 Target	2013/14 Target
4. Number of OIPC presentations	59	61	70	75	80

The Committee may note that this year, we are no longer are measuring our public outreach success based in part on the number of attendees at our presentations. First, it is often difficult to gauge accurately how many people are in an audience, and second, often one presentation to a targeted, but smaller audience may be more effective that a plenary speech to 200. For example, a presentation to 20 privacy professionals may have a larger overall impact on public education as these individuals will carry the access and privacy message to a much wider audience than one to a group of 50 lay people. Both types of presentations are important but I do not believe that the number of attendees is an accurate representation of the success of our public education work.

Goal 4—Efficient and effective OIPC operations

One of our primary roles is providing independent and binding oversight to the more than 1000 access appeals and privacy complaints we receive every year. The law requires us to resolve access appeals within 90 business days, but with approximately 180 files in backlog, this standard has become unattainable. The right to file an appeal or complaint is provided for in law, and we cannot control the number of cases we receive. The OIPC nonetheless must work towards providing as timely a resolution of complaints and reviews as we are able.

The problem of backlog goes back many years. My predecessor and his staff have made changes to better tackle the high case loads and provide more efficient service. This includes instituting a refer-back policy in which applicants are asked to try and work out their dispute with the organization in the first instance. Other measures include management realignment, increasing resources in the intake unit and hiring additional adjudicators.

Strategies

Since taking office five months ago, I have reviewed the OIPC operations in an effort to address the backlog and improve our ability to deal with matters expeditiously, as FIPPA requires. In addition to the structural realignments discussed in the budget submission, I have either put into place or set in motion the following core strategies to improve front-end and back-end of OIPC operations:

- Dedicated more resources to the early resolution of cases by reassigning an Intake Officer as an Early Resolution Service Officer to assist the Early Resolution Officer (a senior investigator) in identifying and resolving cases that can be settled without formal investigation or mediation.

- Developing a policy replacing the "first in, next out" file assignment to allow for the triaging of files to identify urgent matters or matters of significant public interest and give those files a priority

status. This may include circumstances where the applicant's legal rights are in jeopardy, public health or safety is at risk or the matter is of significant and current public controversy involving the actions of a public or private sector agency.

- Developing a policy outlining criteria which will be used to assess whether an investigation into a systemic access or privacy matter is required. The intent is to assist public bodies and organizations in identifying problem areas which, when improved or corrected, will lessen the number of complaints or reviews which may find their way to my Office. These investigative reports will also inform the interpretation of the Act and provide practical guidance for the public and private sector.

- Developing a fair and streamlined process to determine two things: 1) if an appeal or complaint has merit, and 2) if a matter should proceed to a formal inquiry hearing. Under both FIPPA and PIPA, the Commissioner has the authority to decide both of these, but a process for making these determinations has not been set out.

Performance Measure	2010/11 Target	2010/11 Estimate	2011/12 Target	2012/13 Target	2013/14 Target
5. Proportion of FIPPA and PIPA requests for review settled without inquiry	94%	94%	95%	95%	95%
6. Proportion of FIPPA and PIPA review files resolved within 90 business days	52%	49%	55%	55%	55%
7. Proportion of FIPPA and PIPA complaint files resolved within 120 business days	62%	52%	63%	64%	65%
8. Average number of orders and other decisions produced per adjudicator per year	20	33	22	24	26

OFFICE OF THE REGISTRAR OF
LOBBYISTS FOR BRITISH COLUMBIA

SERVICE PLAN OF THE
OFFICE OF THE REGISTRAR OF LOBBYISTS

Goal 1—Increase understanding about what lobbying is and is not

The Office of the Registrar of Lobbyists ("ORL") recognizes that achieving province-wide compliance with the *Lobbyists Registration Act* ("LRA") depends first and foremost on ensuring that designated filers clearly understand what types of communications trigger the legal requirement to register, the registration process and where to receive further information about the LRA.

Although the LRA does not require public office holders to report when they have been lobbied, request verification of registration from a lobbyist before engaging in a communication or refuse to meet with unregistered lobbyists, educating public office holders about the rules under the LRA is also key to compliance enforcement. Effective enforcement of lobbying laws depends on cooperation from public office holders. Public office holders must understand what lobbying entails to assist the ORL in its verification and investigation process and to generally be aware of when they are the target of lobbying and what types of communication do not constitute lobbying.

Strategies

- Develop and publish educational material for posting on the ORL website, including general guides, self-assessment, FAQs, advisory bulletins and newsletters.

- Develop and deliver province-wide compliance workshops targeted at government relations experts, consultant lobbyists, public relations and communications experts, and "organizations", which include non-profit and industry associations, chambers of commerce, boards of trade, coalitions, special interest groups and labour organizations.

- Publish a quarterly ORL newsletter, "Influencing BC", and circulate widely.

- Develop and deliver targeted workshops for public office holders.

Performance Measure	Baseline
1. New educational material developed and posted on website and distributed to the lobbyist community	10
2. Deliver public workshops on LRA requirements	10
3. Publish quarterly online newsletter	4
4. Develop and deliver awareness workshops for public office holders	5
5. Number of new registrations	15% increase
6. Increase in the number of registrations filed "on-time"	90% on-time

Goal 6—Increase public awareness of the existence of the ORL registry and increase traffic to the registry

Public outreach is essential for achieving the goal of transparency. The entire purpose of the LRA is public transparency of lobbying in the province. Concerted efforts must be made to make the public aware of the registry and drive traffic to the website.

Strategies

- Place strategic online and print advertisements about the existence of the public registry.
- Place short articles in various online and print publications about the existence of the public registry.
- Publish monthly reports about who is lobbying in the province, on what subject matter and to what outcome.

Performance Measure	Baseline
7. Number of hits on the website	25% increase

Goal 7—Proactive identity and address unregistered lobbying

The legislature clearly intended the ORL to be active in monitoring compliance with the LRA. This means that in addition to identifying non-compliance from information in the registry and through complaints, other sources of information are to be reviewed on a routine and proactive basis to identify and deal with possible unregistered lobbying.

"Environmental scanning" refers to proactive monitoring of government and organization priorities as well as media reports to decide whether further investigation is required into a matter of possible non-compliance. Information gathered through environmental scanning or from other sources will be examined as part of an administrative review process which may result in a formal investigation and monetary penalty.

Although it is the avenue of last resort in the overall spectrum of compliance strategies, formal investigation and the levying of visible and proportionate administrative penalties in instances of non-compliance is important for securing province-wide compliance.

Strategies

- Analyze a variety of publicly available information sources to identify government priorities, organization priorities and possible unregistered lobbying.
- Conduct preliminary and formal investigations as appropriate.
- Develop and publish a policy concerning the receipt of complaints by the public which addresses issues of notice, process, timelines and confidentiality of the complainant.
- Develop and publish the scale of administrative penalties available to the ORL in instances of non-compliance and how the scale may be applied in instances of non-compliance.

Performance Measure	Baseline
1. Conduct administrative reviews	75
2. Conduct compliance investigations	5

Appendix 1—Caseload statistics—OIPC

Files Received by File Type					
File Type	**Fiscal 2006/07**	**Fiscal 2007/08**	**Fiscal 2008/09**	**Fiscal 2009/10**	**Fiscal 2010/2011 Projected**
Appeals (requests for review)	596	693	629	562	488
Complaints	458	454	491	573	532
Requests for time extensions	242	352	277	382	440
Policy consultations	133	110	127	104	102
Review of bills	52	43	57	42	58
Speeches	58	58	74	59	61
Privacy breach reviews	86	68	80	71	62
Others	425	459	564	564	480
Sub total	**2050**	**2237**	**2225**	**2176**	**2223**
General requests for information & assistance	880	1012	1003	1347	1550
Total all files	**2930**	**3249**	**3228**	**3658**	**3773**

Appendix 2—Office Structure—the Office of the Information and Privacy Commissioner